



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------------|------------------------|
| 10/808,574 | 03/25/2004 | Arkady Glukhovsky | P-5817-US | 5076 |
| 49443 7590 10/18/2007 PEARL COHEN ZEDEK LATZER, LLP 1500 BROADWAY 12TH FLOOR NEW YORK, NY 10036 | | | EXAMINER SMITH, PHILIP ROBERT | |
| | | | ART UNIT 3739 | PAPER NUMBER |
| | | | MAIL DATE 10/18/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

mw

| | | | | |
|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/808,574 | | GLUKHOVSKY, ARKADY | |
| | Examiner | | Art Unit | |
| | Philip R. Smith | | 3739 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-34 is/are pending in the application.
- 4a) Of the above claim(s) 21-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

- [01] A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/16/2007 has been entered.

Claim Rejections - 35 USC § 103

- [02] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- [03] Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gross (2004/0253304) in view of Iddan (2003/0214580).
- [04] With regard to claim 11: Gross discloses an ingestible imaging device comprising:
- [04a] an imaging device ("camera" [0075]) having a housing ("biologically inert housing 32" [0350]); and
- [04b] a detachable appendage (comprising "film 46A" and "drug 36A" [0367]), wherein the housing and the detachable appendage form an oblong capsule shape (see Figure 15) when joined together.
- [05] Gross does not disclose that the housing ("32" as noted above) is substantially spherical. Iddan discloses a capsule endoscope which "may have a body shaped as for example a capsule or elongated member... Other suitable shapes and sizes, such as spherical, ellipsoid, etc., may be used, depending on the application" ([0022]). At the time of the invention, it would have been

Art Unit: 3739

obvious to a person of ordinary skill in the art to construct the sheath of Gross in whatever shape is efficacious. Iddan shows that a sphere is known to a skilled artisan.

[06] With regard to claims 12-13: Iddan (5,604,531), which is incorporated into Gross (as directed in [0039]), discloses an illumination source ("light source 20," 3/29) and a transmitter ("transmitter 28," 3/31). The illumination source inherently has intensity that is adjustable in vivo.

[07] With regard to claim 14: Gross inherently discloses a ballast weight.

[08] With regard to claims 15-16: The "film 46A" disclosed by Gross is inherently a degradable material that is pH sensitive.

[09] With regard to claims 17-20: The "film 46A" anticipates dissolvable glue. It comprises an outer coating ("46A" as noted above) and an internal filling ("drug 36A" as noted above). It is dissolvable, as noted above, and thus is inherently semi-permeable.

Response to Arguments

[10] Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


[11] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.

[12] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.

[13] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is

Art Unit: 3739

available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'Pd Jtz'.A handwritten signature in black ink, appearing to be 'Linda C. M. Dvorak'.

LINDA C. M. DVORAK
SUPERVISORY PATENT EXAMINER
GROUP 3700